



COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF AUCTIONEERS
9112 LEESGATE RD., #5
LOUISVILLE, KENTUCKY 40222
<http://auctioneers.ky.gov>
(502) 429-7145
FAX (502) 429-7147

INSTRUCTIONS FOR FILING A FORMAL COMPLAINT

1. Please type or print clearly. The complainant is the person filing the complaint and the respondent is the licensed auctioneer. **Complaints are filed against an individual licensee, not an auction company.**
2. State the date of the auction or misdeed. Please state specific subsections of KRS 330.110 which you feel have been violated, and the specific conduct of the licensee who you feel violated each subsection. Include names and addresses of witnesses, if any. Enclose copies of contract and any other pertinent documents pertaining to the transaction of the complaint.
3. The Complaint Form must be signed before a Notary Public.
4. A copy and any attachments must be sent to the Respondent Licensee. Copies of further pleadings, letters or information sent to the Board later concerning said complaint must also be sent by the Complainant to the Respondent licensee.
5. The Complainant shall complete the certification section of the Complaint Form stating that a copy of the complaint has been sent to the Respondent auctioneer.
6. The original Complaint form with any attachments and one copy of the form with attachments must be returned to the Board office.
7. It is recommended that the complete Kentucky Revised Statutes Chapter 330 be reviewed. Following this page are KRS 330.192 and KRS 330.110:
 - If KRS 330.192 (3)(f) is applicable, please call the Board office for a Proof of Loss form.
 - KRS 330.110 lists the specific violations that must be stated on the complaint form.
8. Once the Board receives the complaint, an answer form is sent to the licensee to be completed and returned to the Board within 20 working days. When the response is received by the Board, the case is assigned to a Compliance Officer. After investigation, it is presented to the Board at a monthly meeting for determination of further action. If you have any questions regarding the procedure, please contact Janet McWilliams at the Kentucky Board of Auctioneers' office.

330.110 License suspension, revocation, and other penalties -- Grounds.

The board may suspend for a period up to four (4) years or revoke the license of any licensee, or levy fines not to exceed five hundred dollars (\$500) against any licensee, or place any licensee on probation for a period of up to three (3) years, or require successful passage of any examination administered by the board, or require successful completion of any course of auction study or auction seminars designated by the board, or issue a formal reprimand, or order any combination of the above, for violation by any licensee of any of the provisions of this chapter, or for any of the following causes:

- (1) Obtaining a license through false or fraudulent representation;
- (2) Making any substantial misrepresentation;
- (3) Pursuing a continued and flagrant course of misrepresentation or intentionally making false promises or disseminating misleading information through agents or advertising or otherwise;
- (4) Accepting valuable consideration as an apprentice auctioneer for the performance of any of the acts specified in this chapter, from any person, except his or her principal auctioneer;
- (5) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession, commingling funds of others with the licensee's own, or failing to keep such funds of others in an escrow or trustee account;
- (6) Paying valuable consideration to any person for services performed in violation of this chapter, or procuring, permitting, aiding, or abetting any unlicensed person acting in violation of any of the provisions of this chapter;
- (7) Being convicted in a court of competent jurisdiction of this or any other state of a criminal offense involving moral turpitude or a felony;
- (8) Violation of any administrative regulation promulgated by the board;
- (9) Failure to furnish voluntarily at the time of execution, copies of all written instruments prepared by the auctioneer, apprentice auctioneer, or auction house operator;
- (10) Any conduct of a licensee which demonstrates bad faith, dishonesty, incompetency, or untruthfulness;
- (11) Any other conduct that constitutes improper, fraudulent, dishonest, or negligent dealings;
- (12) Failing prior to the sale at public auction or prior to publicly advertising any goods for sale or offering any goods for sale to enter into a written contract with the owner or consignee of any property to be sold, containing the terms and conditions upon which the licensee receives the property for sale;
- (13) After January 1, 1993, failure of any licensee to insert in any advertising pertaining to a particular sale the name of the auctioneer.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 285, sec. 7, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 344, sec. 10, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 170, sec. 9, effective July 13, 1990. -- Amended 1984 Ky. Acts ch. 407, sec. 6, effective July 13, 1984. -- Created 1962 Ky. Acts ch. 251, sec. 11.

330.192 Auctioneer's education, research, and recovery fund -- Annual charges and assessments -- Purpose -- Use -- Coverage of licensees.

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2. The purposes of the auctioneer's education, research, and recovery fund shall be as follows: (a) When a licensee has been duly found guilty of violating any one (1) or more of the provisions of KRS 330.110, or any one (1) or more of the administrative regulations duly promulgated by the board, and upon the conclusion of a final order entered by the board or by the courts, if appealed, the board is authorized to pay to the aggrieved person or persons an aggregate amount not to exceed fifty thousand dollars (\$50,000) against any one (1) licensee, provided that the licensee has refused to pay such claim within a period of twenty (20) days of entry of a final order and provided further that the amount or amounts of money in question are certain and liquidated.

(b) The board shall maintain a minimum level of five hundred thousand dollars (\$500,000) for recovery and guaranty purposes. These funds may be invested and reinvested in the same manner as funds of the State Employees' Retirement System and the interest from said investments shall be deposited to the credit of the research and recovery fund, or, in the discretion of the board, to the agency fund account as set out in KRS 330.050(6). Sufficient liquidity, however, will be maintained so that there will be money available to satisfy any and all claims which may be processed through the board by means of administrative hearing as outlined in this chapter.

(c) The board, in its discretion, may use any funds in excess of the five hundred thousand dollar (\$500,000) level, regardless of whether it is from the auctioneer's education, research, and recovery fund fees or accrued interest thereon, for any of the following purposes:

3. (a) In the event that a licensee is found guilty of one (1) or more provisions of KRS 330.110 or of violating one (1) or more of the administrative regulations of the board, and if the amount of the money lost by the aggrieved party or parties is in dispute or cannot be determined accurately, then the amount of damages shall be determined by a Circuit Court in the county where the alleged violation took place, provided that the board has previously determined that a violation of the license laws or of the administrative regulations has occurred and a final order has been entered.

(b) If such an order has been entered and the license rights of the licensee have been finally adjudicated, then the local Circuit Court shall make a finding as to the monetary damages growing out of the aforesaid violation or violations.

(c) When a final order has been entered by the Circuit Court, Court of Appeals, or Supreme Court, and upon certification to the board, the aggrieved party or parties shall be paid such amount or amounts in the aggregate not to exceed fifty thousand dollars (\$50,000) by the board, and the license held by the licensee against whom the claim was made by the aggrieved party shall be suspended at least until such time as the licensee has reimbursed the auctioneer's education, research, and recovery fund for all amounts paid to the aggrieved party due to the violation of the licensee.

(d) When, upon the final order of the court, the board has paid from the auctioneer's education, research, and recovery fund any sum to the aggrieved party, the board shall be subrogated to all of the rights of the aggrieved party to the extent of the payment and the aggrieved party shall, to the extent of the payment, assign his right, title, and interest in the judgment to the commission.

(e)

(f) All the claims for monetary damages or relief from the auctioneer's education, research, and recovery fund must be made in writing on a proof of loss form submitted to the board within six (6) months of the act of the auctioneer giving rise to the loss. Failure to file such claims within the six (6) month period shall bar the claim. Additional evidence will be submitted by the claimant if required by the board.

(g) Notwithstanding any other provisions of this chapter, no unreimbursed amount greater than fifty thousand dollars (\$50,000) shall be paid by the board on account of any one (1) licensee, no matter over how long a time, or for how many claims, and no matter what the number of claimants be or the size of such claims, individually or in the aggregate. Should the licensee reimburse the fund for all amounts paid, then future claims timely filed with the board concerning different matters may be received pursuant to this section.

(h) No claims shall be approved under this section for amounts which, in the aggregate, exceed the maximum payable on account of any one (1) licensee in effect at the time of the act or acts of the licensee giving rise to the claims, except to the extent of said maximum. Statutory increases in the maximum set out in this section do not apply retroactively.

4. All categories of licensees under this chapter are covered under the provisions of this section for the benefit and protection of the public.

5. This section is not intended to substitute for, circumvent, or duplicate other remedies existing at law or otherwise for claimants or potential claimants, but constitutes a last resort for aggrieved persons who would not, but for the provisions of this section, be able to recover their losses by any other means available. The board shall have full discretion to require that claimants exhaust all other remedies prior to proceeding under this section, including, but not limited to, the remedy of obtaining a judgment by all diligent and appropriate means.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 285, sec. 9, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 344, sec. 15, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 170, sec. 15, effective July 13, 1990. -- Amended 1984 Ky. Acts ch. 407, sec. 9, effective July 13, 1984. -- Created 1982 Ky. Acts ch. 79, sec. 5, effective July 15, 1982.

Date received in KBA office _____



COMPLAINT FORM

Date Of Auction: _____

Please state specific subsections of KRS 330.110 which you feel have been violated, and the specific conduct of the licensee who you feel violated each subsection.

Name of Complainant	Address	City	State	Zip	Telephone
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VS

Name of Respondent Licensee	Address	City	State	Zip	Telephone
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NARRATIVE: (If additional paper is necessary, please insert)

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

CERTIFICATION OF MAILING TO RESPONDENT LICENSEE BY COMPLAINANT:

I certify that a copy of this complaint and all attachments has/have been sent to _____, a
licensed auctioneer, apprentice auctioneer or auction house operator on this ____ day of _____, 20____.

Signature of Complainant (Person completing this form)

(Please sign before a Notary Public)

NOTARY CERTIFICATION:

Sworn and subscribed before me this _____ day of _____, 20____.

My commission expires: _____.

Notary Public